Hong Kong Police Force refused to provide the names and identification numbers of police officers engaged in certain operations
(Related to Code on Access to Information)

Investigation Report

The Complaint

Ms P lodged a complaint with this Office against the Hong Kong Police Force ("HKPF") for allegedly violating the Code on Access to Information ("the Code") by refusing to provide her with the following three items of information concerning its operations to disperse protestors on 12 June 2019 in Admiralty, 21 July 2019 in Sheung Wan, 27 July 2019 in Yuen Long, and 28 July 2019 around Sheung Wan and Western District. The three items of information included:

(a) names and identification numbers of all police officers of the Special Tactical Contingent (*viz.* the so-called "Raptors") engaged in the aforesaid operations;

(b) names and identification numbers of the police commanders who decided to fire tear gas rounds, bean bag rounds, rubber bullets and sponge-tipped bullets during the aforesaid operations; and

(c) names and identification numbers of all police officers who had fired tear gas rounds, bean bag rounds, rubber bullets and sponge-tipped bullets during the aforesaid operations.

Our Findings

Sequence of Events

2. Pursuant to the Code, Ms P requested via email the above three items of information ("the Information") from HKPF so that

she could monitor the abuse of force by the police during operations.

3. HKPF subsequently cited paragraphs 2.6(f)[1] and 2.15[2] of the Code to refuse Ms P's request, asserting that disclosure of the Information would divulge its operational deployments and affect its work in preserving public safety or order and peace, and that the Information involved personal data of police officers.

HKPF's Response

4. HKPF indicated that since 9 June 2019, it has been dealing with waves of protests arising from opposition to the amendment of the Fugitive Offenders Ordinance ("FOO"), a lot of which became serious violence and unlawful acts targeting the police, posing grave threats to the overall safety of Hong Kong.

5. HKPF considered that the Information inevitably involved information about the actual deployment of police resources on the days concerned. While it had explained to this Office in detail how disclosure of the Information would affect its work in preserving public safety, it considered such detailed explanation to the public not advisable in order to maintain the effectiveness of police's work. In gist, disclosure of the Information might assist the lawbreakers in estimating the strength of the police on the scene, and taking focused measures against the police, thereby jeopardising HKPF's work in preserving public safety. As such, it was information which may be refused to disclose under paragraph 2.6(f) of the Code.

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[1] Paragraph 2.6 of the Code: information the disclosure of which would harm or prejudice the preservation of the peace, public safety or order, or the preservation of property.

[2] Paragraph 2.15 of the Code: information about any person (including a deceased person) other than to the subject of the information, or other appropriate person, unless –
(a) such disclosure is consistent with the purposes for which the information was collected, or
(b) the subject of the information, or other appropriate person, has given consent to its disclosure, or
(c) dislosure is authorized by law, or
(d) the public interest in disclosure outweighs any harm or prejudice that would result.

6. Furthermore, HKPF considered that paragraph 2.1.2 of the Guidelines on Interpretation and Application of the Code ("the Guidelines")(**paragraph 9** below), only requires a department to explain, where applicable, to the information requestor its justifications for citing the relevant paragraph(s) of Part 2 of the Code. Further explanation in its reply to Ms P on how disclosure of the Information would jeopardise HKPF's work in preserving public order would effectively reveal the factors affecting the effectiveness of its operations, and in turn provide hints to Ms P to estimate police resources. Hence, having considered the nature of Ms P's information request, HKPF had adopted a pragmatic, practicable and appropriate approach and followed the Code's requirements to explain to Ms P specifically its justifications. There was nothing improper on the part of the Department.

7. In addition, since the outbreak of the FOO-related protests, more than 3,000 police officers and their family had become subjects of extensive doxxing, and their personal data had been used for unlawful purposes. Consequently, HKPF deemed it necessary to invoke the stipulations concerning protection of personal data of the Personal Data (Privacy) Ordinance ("PDPO") to protect the personal data of police officers against abuse so as to ensure continued and effective law enforcement by the police.

8. HKPF further pointed out that the Information exists in a form which makes it practicable to ascertain the identity of the police officers involved, and access to or processing of the Information is also feasible. As such, they are personal data as defined by the PDPO. HKPF must confirm the purposes of Ms P's information request before deciding whether disclosure of the Information complied with Data Protection Principle 3 and the exemptions as set out in Part 8 of the PDPO[3]. As Ms P had not provided justifications to support its invoking the exemptions as set

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[3] Data Protection Principle 3 prohibits the use of personal data for any new purpose which is not or is unrelated to the original purpose when collecting the data, unless with the data subject's express and voluntary consent. Part 8 of PDPO provides exemptions from this compliance requirements under particular circumstances, including certain stipulated circumstances which may harm the public interest.

out in Part 8 of the PDPO, HKPF, therefore, cited paragraph 2.15 of the Code as the reason for non-disclosure after considering the overall circumstances and balancing the interests of various parties.

Our Comments

9. The Code stipulates that Government departments should provide to members of the public the information they hold as far as possible unless there are good reasons under Part 2 of the Code for non-disclosure. Paragraph 2.1.2 of the Guidelines also states that when a request for information is to be refused or partially refused, the applicant concerned must be informed of the reasons for refusal quoting all the relevant paragraph(s) in Part 2 of the Code on which the refusal is based with appropriate elaboration to justify invoking the relevant paragraph(s) in Part 2 of the Code (where applicable).

10. Having examined the nature and the scope of the information requested, we accepted HKPF's viewpoint that disclosure of the Information might help the information holder to assess the police resources deployed to the scene and affect HKPF's work in preserving public safety (**paragragh 5** above). The Information, therefore, belonged to the category specified in paragraph 2.6(f) of the Code.

11. Regarding paragraph 2.15 of the Code, we agreed that the Information involved personal data of police officers. HKPF must follow the requirements of PDPO and the Code in deciding its disclosure or otherwise to Ms P.

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12. Generally speaking, Government departments should provide the names and positions, etc. of its staff to the public upon request if the purpose of the request is related to the staff's discharge of duties. A circular memorandum issued by the Administration Wing also instructs public officers to be ready to provide their full names and titles during their official contacts with the public so that public services can be more transparent and publicly responsible, and their communication with the public easier.

13. In this case, Ms P asked for a huge quantity of information about the police officers who had participated in the operations concerned, rather than the information of individual police officers with whom she had come into contact or had interaction when they discharged their duties. Given that personal data of a great number of police officers had been wilfully spread over the internet in recent months (**paragraph 7** above), disclosure of the Information at this time would definitely render such data more susceptible to malicious dissemination or abuse. Overall speaking, we considered it not unreasonable of HKPF to cite paragraph 2.15 of the Code in refusing Ms P's information request. Even if disclosure of the names and identification numbers of individual police officers might not be in breach of PDPO and the Code, revealing the names and identification numbers of all police officers involved in particular operations does bring the implications as elaborated in **paragraph 10** above.

14. In sum, we consider HKPF's refusal to provide Ms P with the Information not in breach of the requirements of the Code. That said, paragraph 2.1.2 of the Guidelines stipulates that where applicable, when a request for information is to be refused, the department concerned should elaborate its justifications for quoting the relevant paragraph(s) in Part 2 of the Code.

15. We are of the view that Government departments have the responsibility to explain to the information requestor the reasons behind their decisions, instead of merely quoting the relevant paragraph(s) of the Code. In this case, the explanation provided by HKPF in **paragraphs 5, 7 and 8** above would help Ms P to understand its justifications for citing paragraphs 2.6(f) and 2.15 of the Code in refusing her information request. HKPF should have tried its best to state and elaborate its reasons in its reply to Ms P to fully comply with the requirements of the Code.

Conclusion

16. In the light of the analysis as set out in **paragraphs 10 to**

15 above, The Ombudsman considered Ms P’s complaint against HKPF **unsubstantiated, but there was other inadequacy found**.

17. We urged HKPF to learn from this case to ensure that its staff would adhere strictly to the requirements of the Code when handling information requests from the public in the future. In quoting relevant paragraph(s) in Part 2 of the Code as reasons for non-disclosure, it should explain specifically the justifications behind.

Office of The Ombudsman
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